MONTANA LEGISLATIVE HISTORY

Chapter 432 1993

Bill H 509 S _____ Original bill & history ___C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Feb 06	✓C	Hearing Date(s)	Mar 15	✓C
	Feb 26	✓C		Mar 16	✓C
		C			C
		C			C
Date Out	Feb 26	✓C		Mar 16	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Feb 06

TAXATION COMMITEEE (Hearing on all coal tax bills)

The meeting was called to order by Chairman Robert D. Watt at 11:40 a.m., with all members present.

Before the hearing began, Chairman Watt stated that because House Bills ninety-seven (97) and one-hundred sixty-six (166) had already been heard it would not be necessary for the sponsors of the bills to speak again. He also said that those people planning to testify either in favor or against bills posted for the day would be able to refer to all coal bills collectively, since they are all related.

Representative Dan Norman, a taxation committee member, was the first to speak as chief sponsor of House Bill forty-seven (47), which would raise the strip coal mines license tax to $.57 per ton and the fiscal note showed that amount would generate approximately seventeen million dollars ($17,000,000) in the biennium. Representative Norman claimed that the committee would hear from the conglomerates that they cannot afford a tax increase; however, he continued, Montana cannot afford to be further exploited by those conglomerates.

House Bill five-hundred eight (508) sponsored by Wallace Edland was the next to be heard. Mr. Edland's bill would increase the tax to $.10 per ton from the current $.04, which he claims would be more than fair to the companies to which it would apply.

Representative "Hank" Cox, chief sponsor of House Bill four-hundred sixty (460) from Yellowstone County began by stating that coal is an asset and also a resource. He claimed a tax must be levied which will return an adequate revenue level to the state but not be so punitive as to drive industry out of the state. His bill would raise the tax per ton to $.25 on coal for the purpose of supporting county government. The bill has a unique distribution formula that would insure that different areas of government would directly benefit from the tax.

House Bill five-hundred nine (509) sponsored chiefly by Larry Fasbender would change the basis for determining and raising the strip mines license tax and remove the reclamation credit. Rep. Fasbender's bill would raise to $.27 per ton the tax on coal, but at the same time strike the reclamation credit allowed to the companies because he claims in the past the licer e tax has often times been offset by the credit. Even though this particular bill may not be exactly adopted, he claimed, the committee will have several good coal tax bills from which to choose, and the actual amount they will decide upon will be up to their own discretion. In closing he stated that his bill would

Feb 06

generate approximately nineteen million dollars ($19,000,000). Because there was another meeting he had to attend, Mr. Fasbender was then excused.

Although House Bill five-hundred seventeen (517) was not yet up from printing, the chief sponsor, Gorham Swanberg still explained it as a bill that would establish a fee on acres to be surface mined or having been surface mined which have not been released from a reclamation bond. The fee would be five hundred dollars ($500) per acre and although last year there were only one-hundred thirty-seven (137) disturbed acres in the state for a total of approximately sixty-eight thousand five-hundred dollars ($68,500) this would still help to insure a much faster reclamation of the land, as the tax would continue until such time as the reclamation was deemed completed.

Thomas Towe was a sponsor of a coal tax bill, but because he was not present at this point, the opponents were allowed to speak until he came. Those present who testified against the coal tax bills were as follows: Bob Corette, who represented Western Energy Co.; Pat Hooks, who represented Knife River Coal; and Gene Phillips, who represented Pacific Power and Light. While specific bills were referred to by those in opposition, for the most part the subject of coal taxation was discussed as a whole. The feeling was that if the taxes get to a place that the companies are no longer allowed to be competitive, industry will not continue to grow in Montana.

Thomas Towe, chief sponsor of House Bill five-hundred twenty-seven (527) explained it as a bill that would provide for the imposition of an annual disturbed land fee, and also increase the strip coal mines license tax to $.80. He stated there would be three main advantages to the bill: 1. The disturbed land tax would encourage quicker reclamation, and would also allow an agency to reinstate the tax if the land were not properly reclaimed. 2. It would encourage better reclamation methods, because the faster the process could be accomplished the more money would be saved by the coal companies. 3. Montana should be able to realize benefits from the mining of a nonrenewable resource of its land.

At this point, Robert E. Mogan, a Rosebud County appraiser representing the Rosebud County Commissioners spoke in favor particularly of House Bill five-hundred nine (509).

Because Mr. Towe had been late, Chairman Watt asked if any of the opponents would care to say anything concerning his testimony, to which they responded that they had previously known nothing about the reclamation provision of his bill which would make the

February 26, 1973

TAXATION COMMITTEE

The meeting was called to order by Chairman Robert D. Watt at 12:05 p.m., with all members present.

Chairman Watt appointed a subcommittee to study House Bills three-hundred twenty-seven (327) and three-hundred fifty-four (354), with Ora Halvorson as chairman and the other members being Conrad Lundgren and Robert Stephens.

There being no persons present from out of town interested in House Bill three-hundred ninety-eight (398) which was scheduled for the day, Chairman Watt postponed it until the next day so the committee could act on various bills.

Representative Bill Norman, chairman of the subcommittee on coal taxation, presented to the committee a financial statement devised to show what effect the coal package consisting of House Bills ninety-seven (97), one-hundred sixty-six (166), and five-hundred nine (509) would actually have, and that statement constitutes part of these minutes. Their figures being somewhat contingent on the bills passed by the Natural Resources Committee dealing with disturbed acre fees, the assumptions made by the committee was that the average taxation would be approximately $.50 per ton of coal. Representative Norman stated that the subcommittee had been unanimous in its final decisions. Rep. Ulmer, also a member of the coal committee backed up what had previously been said and also stated that the total tax effect should be fair for everyone in the proposed tax package. Another member, Dan Yardley added that House Bill one-hundred sixty-six (166) would provide more money for the counties, and that particularly because of competition of other states it had been most important for the committee to look at an equitable tax but one that would still raise money.

After some discussion between committee members, Rep. Norman moved that HB166 do pass, and the motion carried with Fagg casting the only no vote.

Next, John Tierney, another subcommittee member, moved that House Bill ninety-seven (97) do pass and in conjunction with his motion suggested that he would like to see the bill made irrevocable. Chairman Watt stated he thought there might be a bill to be introduced that would accomplish that by a constitutional amendment. When the question was called, Rep. Tierney's motion that HB97 do pass carried unanimously.

House Bill five-hundred nine, the last of the coal package, was the next to be acted on. There were various amendments prepared

(CONT.)

(CONT.)

to the bill which Rep. Tierney moved do pass, and then explained (the amendments are attached to these minutes). The motion that the amendments do pass, carried committee unanimously. Finally, John Tierney moved that HB509 as amended do pass, which was seconded by Allen Kolstad and the motion passed unanimously.

Chairman Watt stated that Rep. JOnes, chief sponsor of HB one-hundred forty-one (141) had asked that the committee kill his bill since there was another bill dealing with the same subject. Therefore, Rep. Tierney moved that the bill do not pass, and his motion carried unanimously.

Thomas Towe raised the question at that point as to what the coal subcommittee had in mind for those other coal taxation bills not yet acted on. The feeling expressed by the committee was that the proposed package should be allowed out on the floor first to avoid confusion in relation to other bills dealing with the same subject. Two members of the taxation committee, Gorham Swanberg and Thomas Towe, had sponsored disturbed land tax legislation and they both expressed interest as to when their bills would be acted on. With their consent, the Chairman stated those bills would be held in committee for another few days.

Representative Cotton, chief sponsor of House Bill two-hundred eighty-four (284) had requested of the Chairman that his bill be killed. James Burnett moved that HB284 do not pass, and his motion carried unanimously.

Walter Ulmer moved that House Bill four-hundred fourteen (414) do pass, and briefly explained the bill as one that would be a good chance for property tax reduction at the local level as it would allocate the state share of federal revenue sharing funds for property tax relief to Montana homeowners. It was his understanding that federal revenue sharing was originally set up for this purpose. However, Thomas Towe felt the program was set up for various programs and not for property tax reduction at all. Gorham Swanberg interjected that both men were right, and it was mostly a matter of opinion often times depending on party concept.

John Healy agreed with Rep. Towe, and further made a substitute motion that HB414 do not pass, which was seconded by Towe. There was further discussion, after which the vote was taken, and Rep. Healy's motion carried, with the following persons voting against it: Burnett, Fagg, Kolstad, LUndgren, Tierney and Ulmer. Therefore, HB414 was passed out of committee do not pass.

The committee then moved to action on House Bill five-hundred

(CONT.)

COMMITTEE OF THE WHOLE AMENDMENT

February 23, 1973

MR CHAIRMAN: I MOVE THAT HOUSE BILL 509

Be amended on page 4, section 1, subsection 2, line 4, after the figure "(8,001)" by striking the words "~~and up~~" and inserting in lieu thereof the words and figure "to nine thousand (9,000)", and

be further amended on page 4, section 1, after subsection 2 (c), after line 5, by adding a new subsection 2 (d) as follows "(d) For each ton of coal having a BTU rating of nine thousand one (9,001) and up, thirty-three cents ($.33) per ton.", and

be further amended on page 5, beginning on section 2, beginning on line 6, by striking that section 2 in its entirety and renumbering subsequent sections, and

be further amended on page 6, section 4, line 17, by striking the words "~~Section 4. Section 84-1309, R.C.M. 1947, is repealed.~~", and

AS SO AMENDED

DO PASS

Representative Fasbender explained House Bill 509 as the main bill of the tax package on coal.

Jack Tierney, representative and a member of the House subcommittee on the coal package, explained how the 55 cents was arrived at, and explained as 38 cents in 509, 1 to 1 1/2 cents on the reclamation and net proceeds and that the next one would bring in the $500 disturbed acre fee, this would be about 1 cent a ton. The remainder of the tax is in 97, the trust fund. He said the Corporate License Tax is at about 5 cents, net proceeds and royalty interests were about 8.21 cents, and the property advalorem tax at 2 cents, corporate license at 5 cents going up to 35 cents in this bill, bringing it to 52.21 cents.

Tom Towe spoke on the bill and said he did not feel that enough money was being charged to the coal companies, and that he would suggest consideration of the committee to raising the tax, not to lowering it.

Bill Norman, representative, said he would hope the committee would act favorably on the bills, that this was the one with the money in it, and that a lot of work, study, consultation and phone calls had been made by the subcommittee before coming in with their recommendations.

Senator Darrow spoke for the bill and explained the sheets on anticipated coal reclamation costs.

Kit Mueller, Northern Plains Research Council, passed out a statement.

Opponents to the bill included Bob Corette, Western Energy, who stated his company would still mine coal no matter what the legislature put on for a tax, but that the price will go up to the consumer as the tax goes up.

Cal Robinson, Decker Coal Company, spoke and handed out a statement.

Pat Hooks, Knife River Coal Company, said they were not an export company and said they were mining near Sidney and selling their coal to Sidney, so the tax was passed on to state residents.

Syd Groff, state Geologist from the School of Mines, gave a statement, said that while he was not opposed to the bill, he was opposed to the amount of taxes. He said he would strongly recommend that we raise the 20 thousand ton limitation to 50 thousand ton, and recommended reducing the tax to around 10 cents per ton. He stated that about 90% of the coal in Montana was federally owned and they could come in and take over if we made our taxes too high for the companies to be able to mine. Bob Matson spoke briefly.

Dr. Norman said that in answer to the statement that the cost of power to the consumer would go up, that studies had been made, and that the actual cost to the consumer would be 2 cents per month, and he felt no consumer would balk at this amount.

Mar 15

Representative Tierney said he felt the committee, after receiving all the packets of figures they had received, had a little more understanding of what the subcommittee had been up against in cutting through all the figures to try to reach their recommendations.

Representative Towe reiterated his former statement of hoping the committee would pass the present tax package this year, and seriously consider raising it upward next year.

Questions were asked and answered by the committee.

Afternoon, the meeting continued at 1 P.M. Discussion was held on House Bill 509.

Senator Vainio made some amendments, presented by a coal company, that were voted on and defeated.

Senator Klindt moved to change the tax structure in different categories, with no second to the motion. Motion died.

Senator Mathers made a substitute motion that we amend the bill back to the original from the way the House subcommittee changed it, and remove the 5 cents additional tax. There was no second.

Senator McKeon moved to increase the tax by 5 cents, seconded by Senator McOmber, voted and defeated.

Senator Mathers moved, seconded by Senator Turnage, that Section 1, subsection (c), page 4, line 7 be amended by reinserting the stricken material "twenty-seven cents ($.27) and striking the new material "thirty-two cents ($.32)", and that subsection (d), page 4, lines 9 and 10 be amended by reinserting the stricken material "thirty-three cents ($.33) and striking the new material "thirty-eight cents ($.38). Voted and passed, vote recorded, and a Minority report requested by Senator McKeon.

There was a motion by Senator Turnage that House Bill 509 be further amended as per standing committee report, to include a 1 cent increase, a statement of intent, and a severability clause. The motion was seconded by Senator McKeon, voted and passed.

Senator Turnage moved, seconded by Senator McKeon, to adopt the Christianson amendments to House Bill 517. Voted and passed.

Senator Turnage moved, seconded by Senator McKeon, to hold House Bill 517 in committee.

Meeting adjourned, to reconvene at 10 A.M. Friday, March 16.

Nees

STANLEY NEES, CHAIRMAN

SENATE COMMITTEE TAXATION

Date 3/15 #1 Bill No. 669 Time

NAME	YES	NO
Luke Mc Keon		✓
Gordon Mc Gowan		✓
Gordon Mc Omber		✓
Dave Manning		✓
Leonard Vainio		✓
George Bennett		✓
Fred Broeder	✓	
Herb Klindt	✓	
William Mathers		✓
Joan Turnage	✓	
Stanley Noos		

Secretary Sylvia Kinsey

Chairman Stanley Noos

Motion:

SENATE COMMITTEE TAXATION

Date _____ Bill No. 509 Time _____

NAME	YES	NO
Luke Mc Keon	✓	
Gordon Mc Gowan		—
Gordon Mc Omber	—	
Dave Manning		—
Leonard Vainio		✓
George Bennett		✓
Fred Broeder		✓
Herb Klindt		✓
William Mathers		✓
Jean Turnage		—
Stanley Ness		

Secretary Sylvia Kinsey

Chairman Stanley Ness

Motion: [illegible]

SENATE COMMITTEE TAXATION

Date 3/15 // Bill No. 1506 Time

NAME	YES	NO
Luke Mc Keon		✓
Gordon Mc Gowan	✓	
Gordon Mc Omber		✓
Dave Manning		
Leonard Vainio	✓	
George Bennett	✓	
Fred Broeder	✓	
Herb Klindt	✓	
William Mathers	✓	
Joan Turnage	✓	
Stanley Noos		✓

Secretary Sylvia Kinsey

Chairman Stanley Noos

Motion:

SENATE COMMITTEE TAXATION

Date 3/15 Bill No. 509 Time

NAME	YES	NO
Luke Mc Keon	✓	
Gordon Mc Gowan	✓	
Gordon Mc Omber	✓	
Dave Manning	✓	
Leonard Vainio	✓	
George Bennett	✓	
Fred Broeder	✓	
Herb Klindt	✓	
William Mathers	✓	
Jean Turnage	✓	
Stanley Neos		

Secretary Sylvia Kinsey

Chairman Stanley Neos

Motion: Gen. Mc Gowan Gen.

SENATE COMMITTEE TAXATION

Date 3/15 Bill No. 509 Time

NAME	YES	NO
Luke Mc Keon		✓
Gordon Mc Gowan	✓	
Gordon Mc Omber		✓
Dave Manning		✓
Leonard Vainio	✓	
George Bennett	✓	
Fred Broeder	✓	
Herb Klindt	✓	
William Mathers	✓	
Joan Turnage	✓	
Stanley Noos		✓

Secretary Sylvia Kinsey

Chairman Stanley Noos

Motion: [illegible]

March 15, 1973

STATEMENT -- relating to H. B. 509

by Dr. S. L. Groff, Director, Montana Bureau of Mines and Geology, and State Geologist.

I am not opposed to H. B. 509 in the sense that it increases the strip-coal mines license tax.

I am, however, very concerned over the amount of tax increase, which I believe is far too high. Additional revenue is badly needed in Montana, but taxing to the "point of diminishing returns" is not going to provide it, and I believe this bill in its current form will actually diminish the return.

No amendments are recommended, but I have these suggestions.

1. Proceed with caution. I can cite the development of the petroleum resources of the Williston Basin back in the fifties where the well-motivated but not well-considered desire to reap a windfall in revenue resulted in petroleum exploration going elsewhere.

2. The situation with regard to coal is loaded with intangibles. It is difficult to assess just what the economic situation is today, and virtually impossible to assess what it will be tomorrow. The energy industry must have a definite peg on which to hang their hat or they will hang it elsewhere.

3. The whole system of taxing on the basis of cents/ton is questionable. It would be better to work out severance taxes on a percentage basis.

4. A study is needed, and this study should be aimed at an equitable tax system for all the states (Montana, Wyoming, and North Dakota) in the Fort Union Coal Region. Our Lieutenant Governor would seem to be the key person in working out such a system during the interim. There simply seems to be no reason to build a tax fence around Montana, or any other state.

5. The exemption of 5,000 tons is not realistic when you consider the small producer of coal for space heating. This exemption should be raised back up to 50,000 tons as it was some years ago.

Recommendation:

Reduce the proposed tax increase to some reasonable level, such as 10¢/ton, and take steps (amend H.B. 509, if necessary) to get a Fort Union Coal Region tax study under way, and to include a consideration of taxing on a percentage basis.

The Fort Union Coal Region should be developed as a region and not on a "fenced in" state-by-state basis.

1973 Paid Members - Montana Coal Council

1. Westmoreland Resources - Building - will be in operation in 1974.
2. AMAX Coal Company - have coal properties - may operate.
3. Peabody Coal Company - operating coal properties. ✓
4. Knife River Coal Company - operating coal properties. ✓
5. Roundup Powder Company - have coal properties - may operate.*
6. Consolidation Coal Company - have coal properties - may operate.*
7. Island Creek Coal Company - have coal properties - may operate.*
8. Shell Oil Company - have coal properties - may operate.*
9. Mobil Oil Corporation - have coal properties - may operate.*
10. Kerr-McGee Corporation - have coal properties - may operate.*
11. Northern Tank Lines, Inc. - have interest in coal development.
12. Midland, Inc. - have interest in coal development.
13. Cameron Engineers, Inc. - have interest in coal development.
14. Purvin & Gertz, Inc., Consulting Engineers,- have interest in coal development.

*"may operate" means that they have not reached a decision on whether to go into operations in the State of Montana.

(In order to be a member of the Montana Coal Council, one either has to be actively operating, or own coal properties, or have an interest in coal development and coal properties.)

STATEMENT OF DECKER COAL CO.

H.B. 509

H.B. 509 raises the coal license tax on Decker Coal from .10 per ton to .30 per ton.

I. Present Montana tax impact based on 1973 estimated production of 3,800,000 tons on a per ton basis

	per ton	
Property tax	1.8¢	
Net proceeds	22.2¢	
Coal Mine License	10.0¢	
Corporate License	4.7¢	
	38.7¢	38.7¢
Royalties	12.1¢	
Total Revenues paid per ton	50.8¢	

Total taxes	1,470,600
Royalties	459,800
	$1,930,400

II. Tax impact under H.B. 509

Present tax	38.7¢	
Additional H.B. 509 Coal mine license	28.0¢	
	66.7¢	66.7¢

Additional tax impact bills

a. H.B. 97	1.9¢	
b. H.B. 517	.0¢	
c. H.B. 166	.1¢	
d. Loss of reclamation credit	.5¢	
	3.1¢	3.1¢
Total tax impact under all bills		69.8¢
Royalty revenue		12.1¢
TOTAL TAX AND ROYALTY		81.9¢

III. Comparison with Wyoming tax impact per ton on Wyoming mines with similar or higher BTU content than Decker

Big Horn Coal Co. (1972)	17.6¢
Rosebud Coal (1972)	19.7¢

The Wyoming coal mines license tax was 2.4¢ per ton on both mines.

Montana's present coal mine tax is greater than Wyoming's by 268%.

H.B. 509 coal mines license tax is greater than Wyoming's by 1286%.

IV. Late Developments in Coal Marketing

A. Decker has bid on the following contracts without success:

Buyer	Successful Bidder	Location of Coal	Price per ton
1. Public Service of Colorado	AMAX Coal	Wyoming	1.7[illegible]
2. Sutherland Nebraska PUD	AMAX Coal	Wyoming	1.7[illegible]
3. Oklahoma G & E	Atlantic Richfield	Wyoming	1.[illegible]4
4. Southwestern Electric Power	AMAX Coal	Wyoming	1.[illegible]5

Total tonnage 524,709,000 tons

Revenue loss to Montana under present tax impact	$203,000,000
Royalty loss	63,490,000
TOTAL REVENUE LOSS	$266,490,000

B. Proposed uranium enrichment plant at Buffalo, Wyoming to use Buffalo coal and water. Estimated cost is $2,400,000,000 which would double the tax base in Wyoming.

C. There is accelerated research in midwest markets in anti-pollution equipment to enable the use of the abundant high sulphur midwest coal to eliminate the need for low sulphur western coal.

D. There is increasing concerted research in the development of competitive energy sources, i.e., fast breeder reactors, nuclear fission, gasification, geo-thermal, solar energy and MHD.

V. Montana Coal Tax History

1921--a tax of 5¢ per ton of coal mined was imposed.
1939--the act was amended to exempt the first 50,000 tons annually from tax.
1967--the act was amended to cover strip mining of coal. A credit against tax was given for ½ of reasonable value of reclamation work performed.
1971--the coal mines license tax was structured on a BTU basis and Decker Coal was raised to .10 per ton. The reclamation credit was reduced to ½ of costs of reclamation but not to exceed 1¢ per ton.

The effective rate of license tax on Decker increased in 1971 by 211%

H.B. 509 increases pre 1971 tax on Decker by 744%
H.B. 509 increases 1971 tax on Decker by 300%

VI. Discrimination in brackets

A. Under the 1971 act:

1. Decker was paying 66% more tax for 43% higher BTU than Knife River.

2. Decker was paying 25% more tax for 10% higher BTU than Western Energy.

3. Western Energy was paying 33% more tax for 29% higher BTU than Knife River.

Under the 1971 act Western Energy tax should have been 7.7¢
Decker tax should have been 8.5¢

B. H.B. 509 is even more discriminatory in bracketing

1. Decker pays 111% more tax than Knife River for 43% higher BTU coal.
2. Decker pays 15.7% more tax than Western Energy for 10% higher BTU content.
3. Western Energy pays 77% more tax than Knife River for 29% higher BTU content

H.B. 509 raises the coal license tax per BTU (without regard to the 1971 Reclamation credit):

1. Knife River 301%
2. Western Energy 403%
3. Decker 379%

VII. A. In the orderly development of the surface mining coal industry in Montana, market competition for the export of coal should receive substantial consideration. Wyoming coal is our natural competitive standard due to the basic similarity of coal quality and geographic access to the energy-short markets of the midwest and east.

It is apparent that under the existing tax structure, Montana coal is not competitive with the Wyoming coal industry.

B. An increase in coal mine license tax is a further severe impediment to, if not a complete suspension of, the orderly development of Montana coal industry both for export and in state generation. The percentage increases imposed and presently proposed, all within a 3 year period, are a tremendous burden on a new industry seeking a firm base for growth in Montana's economy. Such increases would be understandable were the initial rates unreasonably low or in a non-competative market. Such is not the case here. The base rate of 5¢ per ton effective from 1921 to 1971 is substantially higher than the tax of our major competing state.

C. The inclination to excessively tax coal to satisfy immediate budget needs may be short sighted in view of the potential long range revenue benefits to Montana under a reasonable and competitive tax structure. If the Montana companies are not able to acquire additional contracts of substantial quantities and for extended periods the present reliance on coal tax revenues would have severe effects. Decker Coal presently has one contract with a midwest utility for a total of 22 million tons over approximately 5 years. Decker has to date been unable to acquire additional contracts. Increased tax does not improve the possibility of obtaining new contracts and continuing, at the expiration of its present contract, its contribution to Montana's economy.

It is conceivable that at the expiration of our one contract, that the only coal development in the state would be Western Energy completing its export contracts and mining for Montana Power generation in Montana.

D. We have an excellent Act passed by this session for the control of mining and reclamation of the land. This was and is essential to the protection of Montana and its lands.

There are those who would prefer no mining. They may well have accomplished their purpose if H.B. 309 is passed.

Mar 16

The Senate Committee on Taxation was called to order at 10:22 by Senator Noes, Chairman. He reported the bills left in committee and asked the pleasure of the committee in handling the bills.

A motion by Senator Turnage, seconded by Senator Vanio that the amendments to House Bill 97 on the zeroxed sheet be adopted. Voted and passed.

A motion by Senator Klindt to put in the Knife River Amendment to bring the tax down to 12cents. Seconded by Senator Turnage, voted and passed with Senator McKeon and Senator Vanio voting no.

A motion by Senator Manning, seconded by Senator Turnage to reinsert on page 5, lines 11, 12, 13, 14 and 15 and add a new subsection (1) to the County general fund from which the coal was mined 1/2 cent per ton. ¶ (2) reinsert lines 23, 24 and 25. Also to reinsert the words "distribution for a portion of the strip coal mines license tax to the counties" which was taken out in a previous motion in this committee.

Voted and passed.

A Motion by Senator Mathers, seconded by Senator Turnage that House Bill 509 be concurred in as amended. Voting against were McKeon because of the reduction of the 5 cents, and his desire to attempt to amend this back into the bill with a committee of the whole amendment. Motion carried, Senator McOmber also voting no.

A motion by Senator McKeon, seconded by Senator Turnage that House Bill 517 as amended be held in committee for the 74 session, voted and passed.

Motion by Senator Turnage, second by Senator Mckeon that Senate Bill 433 be reconsidered. Voted and passed.

Motion by Senator Turnage, seconded by Senator McKeon that Senate Bill 433 be held over for the 1974 session.

Motion by Senator McKeon, second by Senator Turnage to reconsider House Bill 358. Voted and carried.

Motion by Senator McKeon, second by Senator Turnage to hold House Bill 348 for 1974 session.

Motion by Senator Turnage, second by Senator Bennett to reconsider House Bill 254. Voted and passed. Voting no were Senators Broeder, Klindt and Mathers.

A motion by Senator Turnage, second by Senator McKeon that we concur in House Bill 254. Voted and passed, negative votes by Senators Broeder, Klindt and Mathers.

A motion by Senator McKeon, do concur in, a motion (substitute) by Senator Mathers, do not concur in, substitute motion by Senator Turnage House Bill 489 be held over for consideration in the 1974 session. Second by Senator Klindt, Voted and passed to be held over.

It was decided to leave House Bill 58 to be held in the committee. The meeting adjourned.

Noes
NOES

SENATE COMMITTEE TAXATION

Date 5/11 Bill No. 509 Time 10:30

NAME	YES	NO
Luke Mc Keon		-
Gordon Mc Gowan	-	
Gordon Mc Omber		-
Dave Manning	/	
Leonard Vainio		
George Bennett		
Fred Broeder		
Herb Klindt		
William Mathers		
Joan Turnage		
Stanley Noos		

Secretary Sylvia Kinsey

Chairman Stanley Noos

Motion: [illegible]

SENATE COMMITTEE TAXATION

Date 3/16 4 Bill No. 609 Time

NAME	YES	NO
Luke Mc Keon	—	—
Gordon Mc Gowan	/	
Gordon Mc Omber		
Dave Manning		
Leonard Vainio		—
George Bennett	/	
Fred Broeder		
Herb Klindt		
William Mathers	/	
Joan Turnage		
Stanley Noes		

Secretary Sylvia Kinsey

Chairman Stanley Noes

Motion:

SENATE COMMITTEE TAXATION

Date 3/11 H Bill No. 509 Time 10:15

NAME	YES	NO
Luke Mc Keon		
Gordon Mc Gowan	/	
Gordon Mc Omber		
Dave Manning		
Leonard Vainio		
George Bennett		
Fred Broeder		
Herb Klindt		
William Mathers	/	
Joan Turnage		
Stanley Noon		

Secretary Sylvia Kinney

Chairman Stanley Noon

Motion: [illegible]

Section 12. This act is effective upon its passage and approval, provided that in the first regular session of the 43rd legislative assembly the time limits referred to in this act shall not apply.

Approved: March 22, 1973.

CHAPTER NO. 432

An Act Amending Sections 84-1302 and 84-1303, R.C.M. 1947, to Change the Basis for Determining and Raising the Strip Coal Mines License Tax and Removing the Reclamation Credit; Providing Distribution for a Portion of the Strip Mines License Tax to the Counties; and Providing for a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1302, R.C.M. 1947, is amended to read as follows:

"84-1302. **Strip coal mines license tax—amount—exemptions—testing of samples.** (1) *A* person engaged in or carrying on the business of strip coal mining, or engaged in the business of working or operating *a* strip coal mine or strip coal mining property from which marketable or merchantable coal is extracted or produced by means of strip mining, whether *the* person *carries* on *the* business or *engages* in *the* work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1921, and each year thereafter, when engaged in or carrying on *the* business, work or operations, pay to the state treasurer, for the use and benefit of the state of Montana, a license tax for engaging in and carrying on *the* business, work and operations, in the amounts listed in subsection (2) on marketable or merchantable coal extracted or produced by means of strip mining by *a* person in the state of Montana and shipped by *him* during *a* year, or used by *him* for any purpose except in connection with the operating of the strip coal mine or mining property from which the *coal* was extracted or produced by means of strip mining or delivered by *him* to *another* person for shipment, sale or use by *the* other person; provided, however, that nothing in this act *requires* laborers or employees, hired or employed, by *a* person to mine coal, or to work in or about, or in connection with *a* strip coal mine to pay license taxes, nor *is* work required to be done in prospecting for, or in developing, or in opening up *a* strip coal mine or strip coal mining property, *considered* to be the carrying on of a strip coal mining business, or the engaging in the business of working or operating of a strip coal mine; provided, further, that if during *the* work of developing or opening up *a* strip coal mine or strip coal mining property, marketable or merchantable coal *is* extracted or produced by means of strip mining and sold, then *this is considered* the carrying on of a strip coal mining business and the engaging in the business of working and operating a strip coal mine.

(2) The license tax paid under subsection (1) of this act *is* computed as follows:

(a) For each ton of coal having a British thermal unit (BTU) rating per pound of seven thousand (7,000) or less, twelve cents ($.12) per ton.

(b) For each ton of coal having a BTU rating of seven thousand one (7,001) to eight thousand (8,000), twenty-two cents ($.22) per ton.

(c) For each ton of coal having a BTU rating of eight thousand one (8,001) to nine thousand (9,000), thirty-four cents ($.34) per ton.

(d) For each ton of coal having a BTU rating of nine thousand one (9,001) and up, forty cents ($.40) per ton.

(3) The person paying such license tax shall be entitled to exempt annually from said license tax a total of five thousand (5,000) tons of coal, and such exemption may be applied all to one British thermal unit rating, or may be spread among the several ratings, but the total exemption may not exceed, in any case, five thousand (5,000) tons in any one year.

(4) The Montana state bureau of mines and geology (hereafter bureau) is designated as the testing agency for purposes of this act and is granted the right to promulgate rules and regulations to provide testing data required by this act. The rules and regulations promulgated under this act shall be structured to mutually protect the interest of the persons subject to the provisions of this act and the state of Montana.

(5) *A* person subject to the provisions of this act shall on or before the first day of August of each calendar year submit to the bureau a sample of mine run "as is" coal from their coal production area. Additional sampling shall be required of the persons subject to this act at the request of the bureau.

(6) The bureau shall provide a form showing the results of the testing provided for under this act to the persons subject to this tax and the board of equalization prior to the first of September of each calendar year."

Section 2. There is a new section to be numbered 84-1309.1, R.C.M. 1947, which reads as follows:

84-1309.1. Disposal of license taxes. License taxes collected under the provisions of this chapter are allocated as follows:

(1) To the county general fund from which coal was mined one cent (1¢) per ton.

(2) All other revenues from license taxes collected under the provisions of this chapter shall be deposited to the credit of the general fund of the state.

Section 3. Section 84-1303, R.C.M. 1947, is amended to read as follows:

"84-1303. **Payment of annual license tax.** Such annual license tax shall be paid in quarterly installments for the quarters ending, respectively, March 31st, June 30th, September 30th, and December 31st in each year, beginning with the quarter ending March 31, 1921, and the amount of the license tax due for each such quarter shall be paid to the state treasurer within thirty (30) days after the end of each such quarter."

Section 4. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 22, 1973.

CHAPTER NO. 433

An Act Implementing Article V, Section 6 of the 1972 Montana Constitution by Creating Procedures which Enable the Legislature to Call Itself into Special Session; and Providing for an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The legislature may be convened in special session by the governor or at the written request of a majority of the members. The governor or the legislature may limit the special session to the subjects specified in the call.

Section 2. When the legislature is in session, a majority of the members may by a written request call a special session to meet at a specified time.

Section 3. When the legislature is not in session, any ten (10) members may in writing request the secretary of state to poll the legislators to determine if a majority are in favor of a special session. The request must state:

(1) the conditions warranting the call of a special session;

(2) the purposes of the special session; and

(3) the proposed convening date and time of the special session.

Section 4. Within five (5) days after receiving a request, the secretary of state shall send to all legislators by certified mail a ballot which contains:

(1) the names of the legislators making the request;

(2) the reasons for calling the special session;

(3) the purposes of the special session;

(4) the requested convening date and time of the special session;

(5) the date by which legislators must return the ballot which may not be more than thirty (30) days after the date of the mailing of the ballots; and

(6) a stamped return envelope.

Section 5. When ten (10) legislators consider an immediate special session necessary, they may request the secretary of state to notify each legislator by the fastest available means. The notification shall include the names of the legislators making the request, the conditions which necessitate the call, and the proposed date and time of convening. Each legislator shall send a letter to the secretary of state approving or rejecting the call for a special session. The letter is a legal ballot.

Section 6. If a majority of the legislators reply affirmatively to the poll, the secretary of state shall notify each legislator of the time and day on which the special session shall convene.

Section 7. If a majority of the legislators fail to approve the call for a special session within thirty (30) days after the secretary of state mails the ballots or notifies each legislator, all ballots are void and may not be used again. The entire process must be repeated to call the legislature into special session.

Section 8. This act is effective upon passage and approval.

Approved: March 22, 1973.